THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P. No. 11483 of 1998

DATED: 26-04-2007

Between:-

G.V.V.N. Raju s/o G.Sitarama Raju, aged about 48 years, occ: Sub-Inspector/RPF (now under suspension) posted at Clothing Stores, Hyderabad Division.

…PETITIONER.

And

The General Manager, South Central Railway, Rail Nilayam, Secunderabad and 4 others.

…RESPONDENTS

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O R D E R

The relief sought for in this writ petition is to declare Rule 153.8 of the Railway Protection Force Rules, 1987 as illegal and to consequently declare the continuance of the departmental proceedings pursuant to the charge memo dated 01.04.1998 as arbitrary and illegal.

Since Sri R.S. Murthy, learned Standing Counsel for the respondents, had fairly submitted that the subject matter of the present writ petition was covered by a Full Bench judgment of this Court in W.A. No. 1397 of 1998 dated 07-09-2001, and as the learned counsel for the petitioner was not present the matter was directed to be listed under the caption 'for judgment' today. Today though the matter is listed under the caption 'for judgment', the learned counsel for the petitioner is not present.

In Writ Appeal No. 1397 of 1998 a Full Bench of this Court considered the constitutionality of Rule 153 (8) of the Railway Protection Force Rules, 1987. The Full Bench observed that in cases

of complicated nature a delinquent may not know the departmental rules or the law and he may be, for all intent and purposes, an uneducated man. The Full Bench held that, by reason of the said provision, right of cross-examination and right to make submissions were denied to a friend which was a valuable right and that such a provision must be held to be unreasonable. The Full Bench held that part of Rule 153(8) of the Rules, whereby and whereunder a friend shall not be allowed to address the inquiry officer nor to cross-examine the witnesses, was illegal. The Writ Appeal was allowed and the respondents were directed to allow the friend of the petitioner to cross-examine the witnesses examined on behalf of the department and make submissions on his behalf.

In the present case also the validity of the said Rule is questioned on the ground that even if the assistance of a “friend” is taken he is not allowed to cross-examine the witnesses and that such a rule was arbitrary. Following the judgment of the Full Bench in W.A. No. 1397 of 1998 dated 07-09-2001 this writ petition is also allowed and that portion of Rule 153(8), whereby the friend of the delinquent is not allowed to address the inquiry officer nor to cross-examine the witnesses, is declared unconstitutional. The respondents are directed to allow the friend of the petitioner to cross-examine the witnesses examined on behalf of the department and make submissions on his behalf.

The writ petition is allowed to the extent indicated above. However, in the circumstances, without costs.

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RAMESH RANGANATHAN,J

Dated: 26-04-2007
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